

Remarks

Claims 4, 13, 18 and 35 are amended and claims 37 and 38 are added. Claims 1 to 38 are pending in this application of which claims 1, 2, 4, 8, 11, 12, 13, 15, 16, 18, 22, 26, 29, 31 and 35 are in independent form.

On page 2, the Office rejected claims 2, 16 and 22 to 25 under 35 U.S.C. §112, first paragraph, as failing to comply with the enablement requirement.

In particular, concern was expressed with the phrase "a mirror switchable into and out of said beam path."

The Office acknowledges that applicants discuss this limitation in the specification on page 7, lines 21 to 28, and the view was expressed that applicants do not disclose how this limitation functionally comes about, which is said to be critical in making the invention.

Applicants submit that a patent need not teach, and preferably omits, what is well known in the art (MPEP §2164.01). The key question to be asked in the context of whether or not a disclosure is enabling is whether any experimentation needed to practice the invention is undue or unreasonable. The "Wands factors" have been devised to determine whether any experimentation needed is undue. The Wands factors include, but are not limited to:

(A) the breadth of the claims; (B) the nature of the invention; (C) the state of the prior art; (D) the level of one of ordinary skill; (E) the level of predictability in the art; (F) the amount

of direction provided by the inventor; (G) the existence of working examples; and, (H) the quantity of experimentation needed to make or use the invention based on the content of the disclosure (MPEP §2164.01).

The present invention belongs to a part of the mechanical arts which is highly predictable. The general concept of how to switch a mirror into and out of a beam path is well known in the art. The skilled artisan is a trained technician working in the field of stereoscopic displays. Applicants submit that such a person would know how to switch a mirror into and out of a beam path to achieve the function of the switchover device of the presently claimed invention. With regard to the quantity of experimentation needed, in the mechanical arts, an adequate disclosure of a device may require details of how complex components are constructed and perform the desired function (MPEP 2164.06(a)). Applicants submit that in the part of the specification the Office referred to, namely page 7, lines 21 to 28, the specification discloses that the mirror replaces a polarization switch (5) and a polarization beam splinter (9) and that it is located at the divider surface of the polarization beam splinter (9) as shown, for example, in FIG. 1. The specification also states that the mirror can be switched in and out of the beam path. Furthermore the specification explains, in detail, the function of the polarization switch (5) and the polarization beam splitter (9), for example in the paragraph bridging pages 6 and 7.

Applicants submit that the skilled artisan, with this guidance provided by the specification, would, without undue

experimentation, know how to use and make the invention claimed in the rejected claims so that claims 2, 16 and 22 to 25 should satisfy the requirements of 35 USC 112, first paragraph, and be allowable.

On pages 3 to 7, the Office rejected claims 1, 3, 5 to 7, 11, 15, 17, 19 to 21, 26 to 28 and 30 under 35 U.S.C. §102(b) in view of United States Patent 6,239,908 to Kelly.

Claim 11 requires:

"an optical arrangement for defining an illuminating beam path and for illuminating said display sequentially in time with light having first and second directions of polarization different from each other" (emphasis added)

As emphasized above, claim 11 states that the display is illuminated in the stated way, that is, the claim defines how the display is illuminated. In contrast, in column 5, lines 49 to 53, Kelly does not disclose how the image display 202 is illuminated. Rather, Kelly only discloses synchronizing the alternating polarization states of left and right images on the image display 202. Applicants submit that a sequential illumination of a LCD (liquid crystal display) with light of alternating polarization states as disclosed by Kelly does not cause the display to generate an image which consists of light of only one polarizing direction.

Accordingly, applicants submit that Kelly does not disclose all the elements of claim 11 as required for a rejection under 35 USC §102(b) so that claim 11 should be allowable.

Applicants also note that Kelly was issued on May 29, 2001. The U.S. filing date of the present application is

December 26, 2001. Thus, applicants respectfully submit that Kelly is therefore not a reference under 35 U.S.C. §102(b). Applicants reserve the right to overcome this rejection with an appropriate declaration.

On pages 6 and 7, the Office rejects claim 12 under 35 U.S.C. §102(b) as being anticipated by United States Patent 5,142,642 to Sudo.

Claim 12 requires:

an optical arrangement for defining an illuminating beam path and for illuminating said display sequentially in time with light having first and second directions of polarization different from each other; ...

... said optical arrangement further including two light sources for emitting respective beams of light and said polarization beam splitter being mounted to receive said beams of light and to coaxially superpose said beams of light one upon the other.

Applicants submit that Sudo does not disclose illuminating beams for a display as required by claim 12. The beams of light l_1 and l_2 in FIG. 5 of this reference to which the Office referred are directed to a camera and do not serve to illuminate the display (see column 11, lines 50 to 53). In Sudo, TV monitor 51 functions as a display. Sudo does not provide a disclosure regarding the illumination of this TV monitor.

Accordingly, applicants submit that Sudo does not disclose all the elements of claim 12 as required for a rejection under 35 USC §102(b) so that claim 12 should be allowable.

On pages 7 to 9 of the action, the Office rejected claims 8 to 10 and 31 to 34 and 36 under 35 U.S.C. §103(a) over Kelly in

view of United States Patent 5,539,422 to Heacock et al.

In view of the fact that Kelly does not constitute a 35 USC §102(b) reference, applicants also reserve the right to overcome this rejection as set forth above.

On pages 9 and 10, the Office objected to claims 4, 13, 14, 18, 29 and 35 as being dependent upon a rejected base claim. However, the Office noted that the claims would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicants have carefully reviewed the Office's reasons for allowance on pages 9 and 10 of the action. Applicants noted that the Office highlighted in these reasons the following feature of claims 4, 18, 29 and 35:

"polarization filters mounted in corresponding ones of said first and second component beam path, each having respective pass-through directions crossed with respect to each other."

Applicants believe that this highlighted feature by itself renders claims 4 and 18 patentably distinct from the prior art so that applicants have amended claim 4 and 18 so that they do not include the limitations of the intervening claims 3 and 17, respectively.

Applicants submit that in view of the above amendments to claims 4, 13, 18, 29 and 35 these claims should now be in condition for allowance. Claim 14, which is directly dependent from claim 13 should also be in condition for allowance as should added claims 37 and 38 which are dependent from claims 4 and 18, respectively.

Applicants have also shown above that claims 11 and 12 are

not anticipated by Kelly. These claims should therefore also be in condition for allowance.

Claims 2, 16 and 22 to 25 were shown above to satisfy the requirements of 35 USC 112, first paragraph, and were not otherwise rejected on the art of record so that these claims too should now be allowable.

In view of the foregoing, reconsideration of the application is earnestly solicited.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Walter Ottesen". The signature is fluid and cursive, with the first name "Walter" being more prominent than the last name "Ottesen".

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Date: September 13, 2004